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CLERK OF COURT

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF SAN DIEGO

10
11 CINEMATRONICS, INC., a California
12 corporation,

13 Plaintiff,

14 vs.

15 VECTORBEAM, a California corporation,
16 EXIDY, INC., a California corporation,
17 and DOES I through X, inclusive,

18 Defendants.

)
) No. 451437

)
) DECLARATION OF

)
) PHILLIP SEYMOUR DeCARO

19 I, PHILLIP SEYMOUR DeCARO, declare as follows:

20 1. I am an attorney at law, licensed to practice in
21 the state of California.

22 2. On Friday, November 30, 1979, I was negotiating with
23 Exidy for the purchase of Vectorbeam from Cinematronics. Exidy
24 was represented in those negotiations by H. R. "Pete" Kauffman,
25 Howell Ivy and Leslie Hauser. I was the principal seller's
26 negotiator and I was in daily contact with Exidy.

27 3. During these negotiations, on that particular Friday,
28 at Exidy, in Sunnyvale, in order to speed up the purchase, I
requested Exidy verify the physical inventory then being taken

1 by Vectorbeam.

2 4. Mr. Kauffman had been told on both the preceeding
3 Wednesday and Thursday that Vectorbeam was taking the regular
4 month-end physical inventory on Friday. He was invited to have
5 his people join in that inventory taking any way he wanted on
6 Friday. He told me he had not been able to contact his accountant
7 to make the necessary arrangements. I pressed him to make
8 those arrangements.

9 5. On Friday afternoon, after being in negotiations 2-
10 3 hours, at my urging, Mr. Kauffman directed his staff to assemble
11 a team to take a physical inventory the next day--Saturday--at
12 Vectorbeam. Vectorbeam is approximately 15 miles or 30 minutes
13 from Exidy.

14 6. On Saturday morning, beginning approximately 10:00
15 a.m., at Vectorbeam, at least five Exidy employees and also its
16 certified public accountant, Mr. Gary Johnson, took a sample
17 physical inventory.

18 7. The Exidy employees, in addition to its CPA, actually
19 taking this physical inventory were:

20 (a) H. R. "Pete" Kauffman, President;

21 (b) Howell Ivy, Vice-President and Director of Engin-
22 eering;

23 (c) Leslie Hauser, Vice President; and

24 (d) At least two other additional Exidy employees,
25 one of whom was, I believe, Mike Cooper-Hart.

26 8. Assisting Exidy were the following Vectorbeam employees:

27 (a) Gilbert J. Levine, General Manager;

28 (b) Carol L. Hatton, Controller;

1 (c) Loren Greenwich, Vice President in charge of
2 Manufacturing;

3 (d) Edward Anderson, In Charge of all Production;

4 (e) Joanne Anderson, Sales, Administration and
5 Customer Service;

6 (f) Tony Bartholomew, Production Line Supervisor; and

7 (g) Don Wright.

8 Messrs. Greenwich, Anderson and Bartholomew and Mrs. Anderson
9 were, as of early April, still Vectorbeam/Exidy employees.

10 9. That at the time of this physical inventory by Exidy,
11 Vectorbeam's employees gave Exidy personnel complete access to
12 all areas of the Vectorbeam facility. The taking of this inventory
13 was done by Exidy personnel under the direction of Exidy's CPA
14 and its chief officers.

15 10. Exidy's personnel counted all games on the assembly
16 line, all games in finished goods, all monitors in burn in, all
17 monitors in test and numerous other component parts. Mr. Johnson,
18 CPA, directed physical counting of various electronic components.
19 Finished goods in an adjoining bonded warehouse were counted.

20 11. Exidy was given copies of the inventory reports made
21 by Vectorbeam on the preceeding day and had these to compare
22 with the counting they were doing. The physical count by Exidy's
23 personnel on Saturday never materially varied from the in house
24 Vectorbeam inventory reports.

25 12. No time limit was imposed on Exidy's personnel taking
26 this inventory and they took approximately four hours. They completed
27 and left when they wanted to--not before. At the time of leaving
28 Vectorbeam, I personally asked Mrs Johnson, CPA, Mr. Kauffman and

1 Ms. Hauser if they needed anything else from Vectorbeam--the
2 answer was "No." During the later part of the actual taking
3 of this physical inventory, Messrs. Kauffman and Ivy met with
4 Messrs. Levine and Grenich in my presence to discuss the critical
5 components needed for future Vectorbeam production and the critical
6 cash flow requirements of Vectorbeam. Certain components, such
7 as power supplies, were discussed in detail including going over
8 the electronic specifications of the power supply and Mr. Ivy
9 sketching out a possible design that could be built "in house".

10 13. At no time thereafter, including the actual signing
11 of the purchase and sale documentation, did anyone at Exidy:

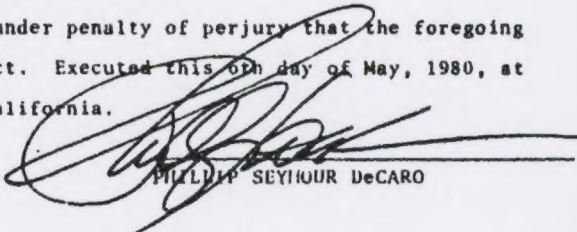
12 (a) Claim or question anything to me about the inven-
13 tory; or

14 (b) Ask me to check or see anything in inventory
15 or any other aspect of Vectorbeam.

16 14. Any claim now made that anyone at Vectorbeam on that
17 Saturday, December 1st, 1979, or at any time thereafter, denied
18 anyone at Exidy access to the inventory or records is totally
19 untrue.

20 If called to testify, I can competantly testify to the
21 above facts of my own knowledge.

22 I declare under penalty of perjury that the foregoing
23 is true and correct. Executed this 6th day of May, 1980, at
24 Portola Valley, California.

25 
26 PHILIP SEYMOUR DeCARO
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